

Republican Additional Views on H.R. 3524, the "HOPE VI Improvement and Reauthorization Act"

H.R. 3524, the HOPE VI Improvement and Reauthorization Act, reauthorizes the HOPE VI program through 2012 and makes several significant changes to the underlying program. It is our view that H.R. 3524 includes several very troubling provisions such as mandatory one-for-one replacement, mandatory compliance with the Green Communities rating system and the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED), and the elimination of demolition-only grants and tenant eligibility standards. We are concerned that these and other provisions will discourage participation in the HOPE VI program by developers and non-profits, thereby undermining the further development of affordable housing.

BACKGROUND

The HOPE VI program was created in 1992 with the express mission to eliminate and replace some of the most dangerous and dilapidated public housing in the country with livable mixed-income communities. The creation of the program was the direct result of recommendations made in a report submitted to Congress by the National Commission on Severely Distressed Public Housing. In the report, the Commission reported that approximately 6 percent of the 1.4 million existing public housing apartments (86,000 units) were severely distressed, and recommended that they be removed from the housing stock. The HOPE VI program encourages public housing authorities (PHAs) to seek new partnerships with private entities to create mixed-finance and mixed-income affordable housing that is developed and operated very differently from traditional public housing.

The HOPE VI program was modified and extended by the FYs 1994, 1995, 1996, 1997, 1998 and 1999 appropriations acts. HOPE VI was originally authorized through the end of FY 2002 by section 535 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA). The 108th Congress initially extended the program through the end of FY 2004, but more recently Congress extended the HOPE VI program through FY 2006. The House passed a one-year reauthorization bill in the 109th Congress but the Senate did not take action.

The purpose of the HOPE VI program is to revitalize severely distressed public housing developments and transform them into safe, livable environments. HOPE VI has been credited with eliminating and replacing some of the most dangerous and dilapidated public housing in the country with new mixed income communities. Local public housing authorities apply for grants and use the funds to leverage other private and/or public funds. The Department of Housing and Urban Development (HUD) seeks to meet the goals of the HOPE VI program by providing grants to PHAs for revitalization, or, if this is not economically feasible, for demolition of distressed public housing. The activities permitted under HOPE VI include:

(1) The capital costs of demolition, major reconstruction, rehabilitation and other physical improvements;

(2) Replacement housing and management improvements;

(3) Planning and technical assistance; and

(4) Implementation of community service programs and supportive services, or the planning for such activities.

According to a report released in June 2007 by The Urban Institute's Metropolitan Housing and Communities Center, entitled 'HOPE VI'd and On the Move,'

HUD has awarded 609 grants in 193 cities under the \$6.3 billion HOPE VI program. As of June 2006, HOPE VI revitalization grants have supported the demolition of 78,100 severely distressed units, with another 10,400 units slated for redevelopment. Housing authorities that receive HOPE VI grants must also develop supportive services to help both original and new residents attain self-sufficiency. HOPE VI funds will support the construction of 103,600 replacement units, but just 57,100 will be deeply subsidized public housing units. The rest will receive shallower subsidies or serve market-rate tenants or homebuyers.

A study of eight HOPE VI sites undertaken by the Housing Research Foundation (HRF) found that in communities surrounding a recent HOPE VI revitalization project:

-

Per capita incomes were up an average of 71 percent (compared to only 14.5 percent for the cities as a whole).

-

Neighborhood unemployment rates had fallen by an average of 8.4 percent.

-

Only 11 percent of neighborhood households were receiving public assistance, down from an average of 39 percent in 1989.

-

69 percent of households qualified as low-income, down from 81 percent in 1989.

-

Commercial and residential lending rates increased at a faster rate than overall city increases.

-

Violent crime and overall crime declined by an average of 46 percent and 68 percent respectively, compared to a decline of only 25 percent and 38 percent in the overall city.

Despite its successes, the HOPE VI program is not without its shortcomings. The Bush Administration and other critics maintain that the program has accomplished its intended mission and should now be eliminated. They argue that grantees spend money too slowly and that the HOPE VI program is not an efficient method of meeting the current and future capital needs of public housing or for meeting the affordable housing needs of low-income families. In addition, tenant advocates claim that the program displaces more families than it houses in new developments.

H.R. 3524, THE HOPE VI IMPROVEMENT AND REAUTHORIZATION ACT OF 2007

Participation by private sector developers and lenders is integral to the success of the HOPE VI program. However, H.R. 3524 significantly complicates participation in the program and changes the risk profile for HOPE VI projects. Congressman Shays, an original cosponsor of the bill, and other Republican Members of the Committee worked with the Majority to address the bill's deficiencies, and while some changes were made through a manager's amendment during Committee consideration, there continue to be several areas of disagreement. Specifically, we remain concerned about provisions that eliminate the demolition-only grants; impose one-for-one replacement requirements; create a right of return for tenants displaced by HOPE VI projects; mandate Green Community/LEED building standards for all HOPE VI replacement buildings; eliminate the HOPE VI eligibility standards; require that units be replaced within 12 months after demolition; and impose multiple notice schedules.

Elimination of Demolition-only Grants: Current law allows HUD to award demolition only grants, but H.R. 3524 eliminates that authority and prohibits the demolition of public housing units without replacement of those units through revitalization. Clearly, there may be instances when demolition-only grants are appropriate. For example, PHAs may have already assembled a financing package to fund redevelopment and replacement housing activities but are lacking the funds for the demolition itself. There may be severely distressed public housing sites that are not viable candidates for redevelopment--sites that may have been only partially occupied or completely vacant. In these instances, other forms of housing assistance, such as Section 8 vouchers, may be more appropriate in a community than public housing. For this reason, we support maintaining HUD's authority to make demolition-only grants.

Mandatory One-for-One Replacement. H.R. 3524 stipulates that PHAs must replace every unit that is demolished or disposed of through a HOPE VI grant, including those units that were unoccupied prior to demolition. One-third of the replacement units must be placed on the site of the original housing and the remaining units within the jurisdiction of the PHA sponsoring the project. The one-for-one replacement requirement is inconsistent with the larger objective of the HOPE VI program, which is to demolish obsolete public housing units and develop sound strategies to redevelop not only the property but in many cases an entire community. The promotion of a mix of incomes for families that will reoccupy the site and the 'de-concentration' of poverty are fundamental to the core mission of the HOPE VI program, and one-for-one replacement impedes the achievement of that mission.

A one-for-one replacement requirement will affect both private and public funding and will pose a number of logistical challenges for private sector participants. Available land and site control issues are significant barriers to in-fill development in surrounding or adjacent neighborhoods, which would force housing agencies to focus construction of replacement units on the footprint of the development. However, the footprint is usually not large enough to accommodate both the replacement of most previous units on site and a mix of other housing types including market rate units. The end result would be reconcentration of poverty on the former site. This would undermine the mixed income model of the HOPE VI program and could return the development to a state similar to that before revitalization. The

HOPE VI program has met its goal of providing an improved living environment for many residents of public housing and that improved quality of life is frequently due to a move to private market housing with the help of a Housing Choice Voucher or other federal assistance. The June 2007 Urban Institute report states:

For most residents of the original HOPE VI sites, relocation is the major program. Our findings show that for the majority of residents who have moved to the private market, moving has meant improvements in neighborhood poverty rates, neighborhood unemployment rates and housing quality.

H.R. 3524 assumes that families will move from the HOPE VI site, be temporarily relocated, and then return to the replacement housing constructed with HOPE VI funds.

While this will be true for some families, it will not be for all. Some residents will choose to remain in the housing to which they relocated, or may choose to keep a Section 8 Housing Choice voucher which empowers the family to make choices about where and when they wish to move. Implementing the one-for-one replacement mandate for HOPE VI projects will increase the overall cost of the program, reduce the number and size of grants made available and discourage participation by the private market, which will lead to fewer families receiving assistance.

Mandated Green Communities and LEED Compliance: H.R. 3524 mandates that developers comply with the criteria of the Green Communities rating system, operated by Enterprise Community Partners, for residential projects, and the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system for mixed-use commercial projects, to the exclusion of other viable or accredited green building standards and programs. Green Communities and LEED requirements in residential and non-residential construction are important variables that will impact both time and cost estimates for a development. H.R. 3524 requires HOPE VI grantees to comply with both mandatory and non-mandatory elements of the Green Communities and LEED criteria which will inevitably increase the cost per unit for constructing public housing.

HUD works closely with PHAs to keep total development costs (TDC) for public housing units in line with federal standards, and these new mandatory green building requirements could put many developments over the TDC thresholds. While we agree with the goal of building greener and more energy and resource-efficient affordable housing, we question the wisdom of codifying a specific privately-developed rating tool such as Green Communities or LEED for a government program. Many credible and accredited green building standards and programs exist in the marketplace today or are in the process of being developed. Codifying green targets to the proprietary preference of one organization in lieu of other viable standards is misguided. Not only will it stifle innovation, but it will also artificially inflate costs for green building materials. In addition, it creates a profit monopoly for one organization through commissioning fees that have no environmental benefit. In a December 26 article in Slate Magazine by Daniel Brook entitled, 'It's Way Too Easy Being Green, The Decidedly Dupable System for Rating a Building's Greenness,' it is estimated that LEED certification can cost more than \$100,000. A 2006 Home Depot Foundation study found that incorporating green building elements into residential construction increases per unit costs by 3-5 percent, and the United States Green Building Council has estimated that complying with its forthcoming residential green building standard will add \$12,000 to \$15,000 in costs per unit, which may not be affordable for the mainstream builder.

The National Association of Homebuilders (NAHB) is currently in the process of establishing the first residential green building standard accredited by the American National Standards Institute (ANSI). The ANSI accreditation credential certifies that the standard has met key criteria in the areas of balance, openness, consensus, and proper appeals protocols. The certification process ensures that no stakeholder receives any undue influence in the development of the benchmarks that must be environmentally rigorous, as agreed upon by both industry experts and by the regulatory community (state, local, and/or federal government) that enforces them. ANSI accreditation also authenticates an

approved standard's ability to comply with national policy on the use of voluntary consensus standards (see OMB Circular A-119 (Revised)). For this reason, the NAHB has stated it will oppose this legislation if this provision remains in the bill. In a letter dated September 26, 2007, NAHB said:

NAHB is extremely concerned about the impacts that the mandatory language in Section 8 for Green Communities and the LEED rating system will have on being able to deliver HOPE VI projects. Because other affordable alternatives exist in the marketplace, and others are likely to emerge in response to addressing the challenges of climate changes, the explicit reference to one rating system in this legislation is overly restrictive, costly and could limit the number of projects that can be undertaken within the HOPE VI program.

The Committee has not been afforded adequate opportunity to fully investigate the ramifications of mandating green standards for the HOPE VI program, much less the implications of mandating a private label green standard such as Green Communities or LEED in statute. Congresswoman Capito, the Ranking Republican on the Subcommittee on Housing and Community Opportunity, offered an amendment during Committee consideration of H.R. 3524 to modify the costly mandatory green building standards for the HOPE VI program included in the bill. Mrs. Capito withdrew her amendment from consideration after receiving assurances that the Majority would continue to work toward a consensus on this issue. We are disappointed that the Majority has not followed through on that commitment.

Elimination of HOPE VI Eligibility Standards. H.R. 3524 would prohibit housing owners and managers (who are generally private actors, not PHAs) from using eligibility and occupancy standards that are used in other federally-subsidized housing programs. Specifically, the bill prohibits PHAs from holding displaced residents or new residents to the HOPE VI development to a different eligibility standard than other households. Specifically, it prohibits the use of any criteria, including credit checks, to limit the ability of public housing residents to re-occupy HOPE VI units, or to receive housing choice vouchers, except to the extent that the residents are otherwise ineligible by Federal law. In addition, the bill includes language providing preferences for the 'hard to house,' which includes convicted felons. In its analysis of the bill, HUD questioned why former prisoners should be given preferential treatment through the HOPE VI program over other vulnerable households. Furthermore, HUD noted that across most HOPE VI developments, resident leaders request very strict return criteria to address these issues in the hope of establishing new standards for their community. The HOPE VI program has led the way in revitalizing not only the physical characteristics of distressed housing but in terms of management and housing policy in general. The continued success of the HOPE VI program and its ability to create mixed income communities depends on the ability of the private partners of public housing authorities, which include developers, lenders, investors and management companies, to be able to use fair and reasonable screening and occupancy policies as a condition for participation. Prohibiting PHAs and private partners from using eligibility standards may deter future participation in the HOPE VI program, which could ultimately impact the future construction and availability of affordable housing.

Replacement of Units within 12 Month after Demolition. H.R. 3524 includes a requirement to provide all replacement dwelling units within 12 months after the demolition of the original project. While we support the goal of increasing the spend out rate of HOPE VI funds and reducing the time it takes to complete a HOPE VI project, we share the concern previously articulated by HUD that this 12-month replacement requirement may be unworkable. As pointed out in the joint letter to Chairwoman Waters on September 24, 2007 by the executive directors of the Council of Large Public Housing Authorities, National Association of Housing and Redevelopment Officials, and Public Housing Authorities Directors Association, this requirement is inconsistent with the financing and development of newly constructed rental housing:

The requirement does not take into account the specific circumstances of a community, local building conditions, or unforeseen setbacks and delays in financing, construction and redevelopment process. The assembly and preparation of building sites, the allocation of low-income housing tax credits and the availability of financing can be a multi-year effort. If housing authorities are expected to provide replacement dwelling units, the statute must provide scheduling flexibility to structure the phases of their projects while taking into account the availability of building sites, financing, types of units and other local market factors.

Multiple Notice Schedules. H.R. 3524 imposes additional tenant involvement and participation requirements in the planning process for a HOPE VI redevelopment project. The bill requires public housing agencies to inform residents during all stages of the grant and application process through four written notices regarding the application, award of the grant, completion of the grant, and availability of replacement housing. It is important to note that current law requires housing agencies to involve residents in the grant application process, development efforts, relocation and community and supportive services. Under additional requirements in the Uniform Relocation Act (URA), which all HOPE VI grantees are obligated to follow, PHAs must issue a notice of intention to redevelop a site and of the right of residents to relocation benefits. Tenant input and participation is essential to the success of a revitalization program. However, it is important that the processes and procedures put in place do not impede the ability to effectively and efficiently implement the revitalization program. While H.R. 3524 includes many tenant protections and participation requirements, it does not include any level of protection for private and public entities administering or participating in the HOPE VI program. The absence of adequate safeguards ensuring an orderly and fair planning and development process for public housing authorities and private entities may serve as a deterrent to their participation in the program.

CONCLUSION

The HOPE VI program is not a cure-all for the rehabilitation and capital improvement needs of public housing. However, it has been a program that has worked. Through public-private partnerships, many severely distressed public housing developments have been transformed into safe, livable environments by establishing positive incentives for tenant self-sufficiency and comprehensive services that empower residents. Because the overly prescriptive and potentially burdensome reforms contained in H.R. 3524 threaten to do more harm than good to the HOPE VI program, we intend to seek substantial changes to the legislation when it is considered by the full House.

Shelly Moore Capito.

Peter Roskam.

Ginny Brown-Waite.

Randy Neugebauer.

Kenny Marchant.

Adam H. Putnam.

John Campbell.

Spencer Bachus, III.

Geoff Davis.

Christopher Shays.

Mike Castle.